

ject of the salaries of officers; and although a large portion of the community who are in favor of a well regulated judiciary, would be willing to vote a large and competent salary, yet if you were to tell these men that the organic law had fixed it beyond their control, you might produce in their minds a prejudice against this constitution difficult to be removed. I had intended at the proper time, to offer, on my own responsibility, the amendment which I proposed in committee; that the next legislature, coming in under the new constitution, fully impressed, as I trust it will be, with the importance of giving this amendment a just and impartial trial, should fix the salaries of the judicial officers at a standard which should not be diminished for eight or ten years; and by that means we should secure better salaries, and free the constitution from the danger of attack, because of its inhibition on the subject of salaries.

If the amendment under consideration should be rejected, I shall offer, in the shape of an addition section, the substance of what I have indicated.

Mr. NESBITT. My opinion is, that if we fix a minimum in the constitution, we ought to give the legislature the power to reduce that minimum whenever they increase the number of judges. I have no objection to fixing a minimum, provided this principle be adopted. The legislature may increase the number to twenty, and if so, it is not to be expected that they should each receive a salary of \$1,600. When in order, I will move to add the following provision:

"Provided, That when the general assembly shall deem it necessary to increase the number of judges, they shall have the power to reduce the salary thereof; but they shall not have power to depart from the principle of equality of pay.

Mr. MERIWETHER. I presume the legislature will not increase the number of judges and there shall be an increase of business to justify it. And whenever there is that increase of business, there should be no reduction of the existing salary, because the old judges would have the same amount business to perform. I make this remark in opposition to the amendment of the gentleman from Bath (Mr. Nesbit), but we are now, about to test the plan of executive authority, and I want it to have a fair trial; and unless you give salaries that will elicit the best talents in the country, we shall never get good judges. I trust, therefore, that those who are in favor of giving this test a fair trial, will vote for a minimum salary.

Mr. NESBITT. I presume that if the power is given to the legislature to reduce the salaries of the judges, when it shall be found necessary to increase the number, they will not dare to think proper to say they have much work to do. Suppose the gentleman from Jefferson (Mr. Meriwether), should be elected judge in the new constitution, and a minimum salary of \$1,600, is fixed, he would find it convenient to say, I do the business of my district, provided you leave it as it is, and not reduce the salary. But if I should happen to be elected judge, and power be given to the legislature to increase the number of judges, without the power to reduce their salaries, I might say, I have entirely too much work to do, you must add to the number of judges.

Mr. MERIWETHER. The gentleman has supposed a case that can never exist. They have rendered me ineligible for the office of judge, but he is not ineligible. The gentleman therefore can best judge of the motives that would control his own action.

Mr. NESBITT. Last evening some part of the responsibility by taking myself into the illustration. I rather think that if a minimum salary should fix it, the gentleman would soon have a committee in his pocket.

Mr. W. C. MARSHALL, with drew his proposition to fix the minimum at \$1,600.

Mr. BALLINGER. I move to strike out \$1,600 and insert \$1,500.

The motion was rejected.

The question then recurred upon the sub-

stitute, the proviso which he had indicated his intention to offer.

Mr. NESBITT moved, as an amendment to the substitute, the proviso which he had indicated his intention to offer.

I wish to speak particularly though, Mr. President, in reference to the judges in the present constitution, sought to be remedied by the section under consideration, and the amendment of the delegate from Madison. Little regard has been paid to the penal statutes in Kentucky, by those whose interests or abandoned nature prompted them to set them at defiance, and why? Not because grand juries were disinclined to return indictments, or because petit juries and courts were opposed to inflicting the appropriate and legal penalties; but they have been trampled under the feet of the lawless desperadoes of the country, in consequence of the certain refuge country extended, almost, by the executive to them. I have known more than one unprincipled law-defying villain, to laugh at, and defy the officers of government, in their efforts to enforce the penal statutes of Kentucky, knowing, sir, that let their infamies be never so great, that a merciful executive would avert the chastising rod in the name of poverty, misery, or something of the sort. So much does not depend upon the number or the severity of penal statutes as a rigid enforcement of their penalties when violated. The certainty, more than the character of the punishment, deter from the commission of crime, and a violation of the moral precepts of our penal code. I do not pretend to speak of the practice in any portion of Kentucky, save that immediately represented by me upon this floor; but I do know, sir, that within my knowledge, the exercise of the pardoning power by the governor, and the indiscriminate remission of all fines imposed by the courts and juries of the country, have done more to embolden crime, interrupt the peace of society, and trample under foot the morals of the community, than all other causes combined. I would be willing to deprive the governor of the power to remit fines altogether, as I say that after an enlightened court and jury had found a man guilty of a gross violation of the penal laws, he should suffer that punishment which the wisdom of the law-making power had provided. But as I can not succeed to the full extent, I do hope that the report of the committee will be sustained. There has been a constant warfare going on between the virtuous law-abiding citizens, determined to sustain the morals and well being of society, on the one side, and the reckless out-breaking law-dictating desperado on the other, ever since law was invented and applied to human action. The innocent man will never suffer in consequence of the application of the remedy, which the section under consideration proposes, to the evils complained of. The guilty alone are destined to reap the merited punishment by it, the legitimate fruits of their desperate deeds.

Mr. MITCHELL. I propose the following substitute for that section:

"The governor shall remove the judges of the circuit courts on the address of two thirds of each house of the general assembly; *Provided*, however, that the cause or cause for which such removal may be required, shall be stated at length in such address on the journal of each house."

This is a provision that has been adopted in regard to the court of appeals; and it occurs to me there is no good reason for departing from the rule in relation to the judges of the circuit courts.

The question being taken, the substitute was rejected.

The section was then adopted.

The eleventh section was then read as follows: "Sec. 11. The judges of the circuit court shall be removed from office by a resolution of the general assembly, passed by two thirds of each house. The cause or causes for which such removal shall be entered at large on the journal of each house."

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Mr. TAYLOR asked and obtained leave to withdraw his amendment, and to offer the following, in substitute for the whole section in lieu thereof:

"I am tried, for treason and felony, as well as in other cases of criminal offenses, the accused shall have the right to prosecute an appeal, or will of course, to the court of appeals, to any judge or judges who in the circuit court may render a just and fair trial, and the general assembly shall provide, by law, in what manner such appeal, or writ of error may be prosecuted: *Provided, however, that no appeal, or writ of error, shall extend only to questions of law which may arise in the trial, or to the progress of the trial, in the circuit court.*"

Mr. CHOLSON. I do not agree for one, to either of these substitutions. For God's sake, let us intend to punish any man in Kentucky, if we cannot, then let the state do it, the commonwealth, and for the state, the substitute does not provide.

My experience teaches me that your very rich, uneducated man, can purchase juries enough where the right of challenge is not granted, to keep their nests out of the commonwealth with as much difficulty as to keep them in. I have no desire to expose it, as it is my way men being bought and sold in the market, and placed where they can be put in my box, that this right of challenge is proposed. It has become a mark in my section of the country that you cannot hang or punish a murderer man. Is he to have a hard time, so far as to say that they would not hesitate to shoot any man who would offend them, if they had five or a thousand dollars to spend to get themselves clear. Instead of striking it out entirely, I would prefer to extend the right of the commonwealth to challenge.

Mr. DIXON. I am decidedly against the section, and greatly prefer the 2nd substitute of the gentleman from Mason, Mr. Taylor. That is, that there shall be an appeal only in cases where there is a dispute upon a question of law merely, and nothing else. I do not know that I am in favor of the right to appeal at all.

I greatly prefer it in the section as it stands. I think that the arguments adduced by the gentleman from Graves, Mr. Mayes, are very far from proving the proposition to be asserted. As I said before, the 2nd has but a poor chance against the commonwealth, with the advantages it has on its side. It is compelled to it, but as far as possible the popular prejudices which the very fact that he is charged with crime excites against him before he can have a fair trial. The 2nd however, should stand as the propounder of the law.

Mr. MAYES. The gentleman is mistaken if he supposes I learned the law I stated only during my experience as a commonwealth attorney.

Mr. DIXON. I have no doubt but that gentleman has learned it by experience, but the question is whether he has been rightly taught or not.

The school in which he was taught was that of prosecuting attorney, and what prosecuting attorney does not come forward with a proposition that the culprit should be convicted whether he is guilty or not; and then if the jury happen to be with him, what is his opinion?

Why that there is a great defect in the criminal jurisprudence of the state, and that it ought to be remedied.

Of course there is no man who defends the accused, but who believes

it is to not to guilty the verdict is right. The one is a fair set for the other. The rich and the powerful can protect themselves; but who shall shield the poor and the impotent from the stern of popular justice when it is exercised against them?

Would the gentleman break down the greater efforts to this偏頗 which the law has thrown around the weak and the defenseless. And yet to get at the rich and powerful, you must strike down all the poor and powerless. That is the argument, and I do not assent to it. The most powerful talents are brought to assist the rich and powerful, while the poor devil who comes into court with suspicion upon him, if he has no man in his pocket, will find it difficult to array this talent in his defense. And when the suspicions of the mass have excited the popular prejudices against him, under these circumstances, would you take from him the little protection the law has extended to him in the right to challenge those who are prejudiced against him, or give to the commonwealth the right to challenge those who might be disposed to do him justice?

This is the whole sum and substance of the position. I am not for that, I well know how difficult it is sometimes for men to get even a show of justice.

I was once engaged in the county of Hopkins in the case of a mulatto negro, who was charged with breaking open a house, with the intention to commit a felony. There were two counts in the indictment—one charging him with intention to commit a rape, and the other with intention to commit a felony. Under one of these counts, of course, he could not be punished either by stripes, because the crime would not constitute a felony; but the intent to commit a rape was a felony, for which the punishment was death.

The suspicion however was teeth, that he intended to commit a rape on the lady of the house, though her husband was in bed with her at the time, and the execution ran so high against the accused, that when a jury came to be called upon the panel was exhausted as well as the crowd outside, for the reply to the usual question put to jurors on such occasions, was almost invariably that they had made up their minds, and that was that the negro ought to be hanged.

It was an honest and a generous feeling which impelled the people—it was a desire for the safety of the commonwealth; but in this case it was mislead, misdirected, by passion.

We labored for a long while in securing a jury, and such was the influence of this feeling upon them that they could not agree; and another jury had to be called, when the same feelings of compunction one were encountered. At last one was formed, and they came to the conclusion that the man was not guilty, and a quieted him.

What chance had he under that state of facts with the commonwealth? Had he any power to pack a jury? None. But the justice of his cause and the shield of the law had him, to save him from the sacrifice demanded by the popular and excited multitude. I am not therefore for wresting from the accused the only chance which the law gives him of securing a fair and impartial trial. And I tell gentlemen then, if bribery and corruption is to be brought to bear, that if they do give the commonwealth the right to challenge four or five of the jurors, it will not deprive the rich and powerful of the means to exercise it.

But you take from the poor man the protection which the law throws around him with a view of securing a fair and impartial trial. I would not give the power, the commonwealth now has, when it can array, whatever talents it may desire to prosecute any man, who may be accused and bring him to conviction, even when not guilty.

It has been, and hereat the day comes up from all parts of Kentucky, that the guilty are allowed to escape from the punishment due their crimes. Has it not been complained of also, that men have been sacrificed to the popular fury and excitement of the moment.

Have we not recently heard of two negroes who were charged with killing their master, and who without trial, upon the mere charge, were burned at the stake? It was against these popular ex-

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We can't bring the dear man to life again, so let him go."

I recollect the case of a man named Sy. Hults, who shot another, but who, however, did not die. He did not give bail, and I did not want him to do so, fearing that he should remain in jail. For while every time that he was brought out, I would always walk with him. I found that there was a strong prejudice against him, tending to his conviction, and that he ought to have the right to send up the case to the court of appeals, where it may be able and lengthily argued by a court that have time to give it full consideration.

That is one point. The other is this. If the counsel for the accused, or the accused think the judge is prejudiced against him, and he refuses to take an appeal, then the accused has the right to apply to the judge of the court of appeals. And if that judge is willing to take the responsibility, and sees good cause for issuing a *subpoena*, he ought to have the benefit of it. I go far, and if gentlemen say the people saying "poor Sy" have not enough God knows—and I fought the British too," and similar expressions of commiseration. Said "poor Sy, now is the time, I shall have you now," and the suit being brought on, he was tried in five months after his retirement.

There is a great deal of very fine declamation in what the gentleman has said, but he does not meet the question fairly. The proposition is this: the accused may challenge for cause, if he can show any cause which is known to the law as good ground for challenge, and in addition to that, he can challenge twenty with setting out cause.

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As to the right of challenge, I have no desire to increase it, as it is my way men being bought and sold in the market, and placed where they

can be put in my box, that this right of challenge is proposed. It has become a mark in my section of the country that you cannot

hang or punish a murderer man. Is he to have

a hard time, so far as to say that they would

not hesitate to shoot any man who would offend them, if they had five or a thousand dollars

to spend to get themselves clear. Instead of

striking it out entirely, I would prefer to ex-

tend the right of the commonwealth to challenge.

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FRANKLIN SPRINGS, FRANKLIN COUNTY, KENTUCKY.

COL. F. W. CAPERS, A. M., President and Superintendent, Professor of Civil and Military Engineering, Philosophy and Anatomy.

DR. THOMAS B. MORSE, Professor of Organic, Comparative and International Law.

J. D. BROWN, A. M., Professor of Ancient Languages, Logic, Rhetoric and Ancient History.

MAJOR T. LINDSLEY, A. M., Professor of Ancient Languages, Logic, Rhetoric and Ancient History.

CAPT. R. D. COOK, A. M., Professor of Modern Languages and Belles Lettres.

CAPT. W. J. MAGILL, Professor of Mathematics.

CAPT. SAM'L. P. BANCUM, Post Adjutant.

J. LOVINS.—The Franklin Institute, Franklin Springs, six miles from the city, is in all respects desirable, apart from all unwholesome influences, whether moral or physical.

ADVANTAGES.—The course of studies at the Institute is unusually comprehensive in its character. Whilst the Military Education is complete and the Cadet corps is well equipped for its field, the student will find, that his country requires such services, he is at the same time made an accomplished Scholar in letters and science, understanding the constitutions of his country, and the duties of its citizens and officers, in a Civil and Military point of view, and in a consideration of those important public works which are in progress or contemplated in every part of the United States.

Law Department.
HON. THOS. B. MONROE, Professor.

This Department is organized, for the present, with the view of including only those branches of Law which belong rightfully to the regular Acadie course of every college, and which are in fact necessary to enable the student to understand his own government, with its laws, the duties of its citizens and officers, and to make himself the statesman, military lawyer, and accomplished American gentleman; and not with a view to his practice of the Law as a profession.

The class will consist of about 150 students of the College, whilst, except in their studies of History and Moral Philosophy, but its exercises will be so conducted as not to interrupt the studies of its members in any of their other classes.

TERMS.

Payable half yearly, in advance. Institute charge for board, Tuition, Lights and Washing, per Collegiate year, \$160.00. Do. do. do. (Preparatory Department,) 130.00 French and Spanish Languages, extra, each, \$10.00.

For more particular information address the undersigned, at the Kentucky Military Institute, Franklin Springs, Franklin County, Ky.

F. W. CAPERS

October 10, 1849.—8d

Female Eclectic Institute,

NEAR FRANKFORT, KY.

This well known school will open its 26th regular session on Monday, July 1st, by which day it is requested that all pupils, who are to be admitted, and desirous of graduating of a very large class, may now apply for admission; and any other admission will be granted, as soon as possible.

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HYDRAULIC CEMENT.

100 BBLs. Louisville Hydraulic Cement, received per Blue Grass, and so forth.

JOHN & CRITTENDEN.

Paste Blacking, Writing Ink, &c.

WE continue, as we have done for a long past, to manufacture Paste Blacking, Writing Ink, and

Silver and Bone Liniment.

The quality of our articles, we warrant, equal to any in the market, and which we now sell, Paste Blacking and Writing Ink, often indistinguishable from West India, to the best of our knowledge, to be had at a lower cost in the addition of taste, fragrance, and richness.

For instruction in vocal and instrumental music, including the organ and a of a Metronome—thirty dollars per session.

All necessary English text books, and stationary of every description, will be furnished at the very low price of ten dollars per session.

In addition to the above, the proprietor is prepared to undertake the Agency, and attend to the sale of Novelty Instruments, Ornamental or Useful Articles of almost every description.

N. B.—The location is one of the very best in the city, and the exhibition of our goods, one of the largest and most complete in the whole country.

Cincinnati, Ohio, October 5, 1849.—d

P. S. FALL, A. M.

JAS. S. FALL, A. M.

Poplar Hill, June 10, 1849.—60m.

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Cincinnati, October 5, 1849.—d

G. RAY & GEORGE.

Fine Cordials, &c.!

case Curacao; 2 cases French Cordials, assorted; 1 case Extract of Dandelion; 1 case French Punsch; 2 cases Muscat de Rives; 1 case Housewife Wine; 4 cases Cattavaia Wine; 4 cases Julian Mead; 1 case Gray & George.

PAPER WAREHOUSE.

We have in store, \$1000 Reams of Paper,

and have within 30 days amounting to 1000 Reams of

to arrive within 30 days, comprising the largest and

most complete assortment of paper in the West. A large

part of this stock has been imported to our

factory, and is adapted to the wants of

Manufacturers, and other consumers in this region.

Our arrangements with Eastern Manufacturers have been perfected the present summer, and give us ad-

vantage equal, if not superior, to any other Western manu-

facturer.

We warrant the papers sold by us to be the very best

in the market, and will oblige by giving us a call, and if we fail to trade, no harm is done.

We pledge ourselves to sell at reasonable prices—and the article shall be precisely such as we represent it.

We are regularly established here, and it is our pleasure, as well as our interest, to satisfy our custom-

ers.

FRANKFORT, KY., October 20, 1849.

CITY ORDINANCES.

BE it ordained by the Board of Commissioners of the city of

Frankfort, that it shall not be lawful, hereafter, for any person, or persons, to pass around or through the city, riding, or in any other manner, in a carriage, or

otherwise, to display, or to expose, to the public, any

articles, or property, which are not of the value of

one hundred dollars, per session of the Legislature.

For instruction in vocal and instrumental music, including the organ and a Metronome—thirty dollars per session.

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FRANKFORT, KY., October 20, 1849.—d

Barber Shop, Bath House, &c.

Henry Samuel,

on East Side St. Clair St., opposite the Mansion House,

HAVING recently refitted his establishment in a

style superior to any in the city, and as he has fit

up a large number of

articles, he is anxious to have a

large number of

customers, and any one wanting clothes,

can have them fitted up in superior order and without delay.

By careful attention to business, he hopes to merit a

continued patronage heretofore so liberally be-

stowed on him.

Oct. 4, 1849.—67-1f

ODHIAN & TODD'S COTTON.—The best ar-

ticicle, in store and for sale by

GRAY & GEORGE.

FRANKFORT, KY., October 20, 1849.—67-1f

WANTED! WANTED!
The undersigned are desirous of purchasing six
hundred Bushels of HAY, and Three Thousand
Bushels of BARLEY. They are willing to give
JOYCE & WALSTON.

Frankfort, October 4, 1849.—d

MERRILL'S BAKERY,

AND WHOLESALE CANDY FACTORY,

No. 4, Corr. Front and Walnut Streets, Cincinnati.

Pilot Biscuit; Butter Crackers; Soda Crackers;

Always on hand at reasonable prices.

Country Merchants are invited to call.

ROBERT MERRILL, JR.

Cincinnati, October 4, 1849.—d

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